

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

United States of America,

Case No. 2:13-cr-00383-JAD-VCF

Plaintiff

v.

**Order Granting Unopposed
Motion for Compassionate Release**

Brandon Fernandez-Parra,

Defendant

[ECF Nos. 81, 83]

Brandon Fernandez-Parra pled guilty to eight counts related to drug trafficking, and he has served more than half of his 135-month sentence. Currently incarcerated at the Butner Federal Medical Center, Fernandez-Parra moves for compassionate release because he has advanced pancreatic cancer with an 18-month life expectancy.¹ The government does not oppose that request and concedes that Fernandez-Parra's cancer diagnosis and attendant life expectancy justifies his compassionate release. It adds that his five-year term of supervised release "will ensure that the [c]ourt has the ability to monitor his conduct."² The government requests that the court order Fernandez-Parra to be quarantined for a 14-day period and receive medical clearance before his release.³

A sentencing court's ability to modify or reduce a sentence once imposed is seriously limited.⁴ The compassionate-release provision of 18 U.S.C. § 3582(c)(1)(A)(i), as amended by

¹ ECF No. 83.

² ECF No. 85 at 3.

³ *Id.* at 4.

⁴ See *United States v. Penna*, 319 F.3d 509, 511 (9th Cir. 2003) (exploring Federal Rules of Criminal Procedure 35 and 36); 18 U.S.C. § 3582(c).

1 the First Step Act of 2018,⁵ is an exception to this limitation. It allows the sentencing judge to
 2 reduce a sentence based on “extraordinary and compelling reasons” after the defendant has asked
 3 the Bureau of Prisons (BOP) to bring such a motion on his behalf and exhausted all
 4 administrative rights to appeal the BOP’s denial of that request.⁶ The court must consider the
 5 factors in 18 U.S.C. § 3553(a) “to the extent that they are applicable,” and any sentence
 6 reduction must be “consistent with applicable policy statements issued by the Sentencing
 7 Commission.”⁷

8 Although the statute does not define “extraordinary and compelling circumstances,” the
 9 U.S. Sentencing Commission has identified four categories of situations that may qualify: serious
 10 medical conditions, advanced age, family circumstances, and a catch-all “other reasons.”⁸ The
 11 Sentencing Commission finds extraordinary and compelling reasons under the medical-condition
 12 category when the defendant has a terminal illness.⁹ A terminal illness is further defined as “a
 13 serious and advanced illness with an end of life trajectory,” such as “metastatic solid-tumor
 14 cancer, amyotrophic lateral sclerosis (ALS), end-stage organ disease, and advanced dementia.”¹⁰

15 As the government acknowledges, Fernandez-Parra has a terminal illness with an end-of-
 16 life trajectory, giving him extraordinary and compelling reasons” for a sentence reduction.¹¹
 17 And the factors under 18 U.S.C. § 3553(a) are not an obstacle to his release because, as the
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19 ⁵ The First Step Act of 2018, § 603(b), Pub. L. 115-391, 132 Stat. 5194, 5239 (Dec. 21, 2018).

20 ⁶ 18 U.S.C. § 3582(c)(1)(A)(i).

21 ⁷ *Id.*

22 ⁸ U.S.S.G. 1B1.13, application note 1(A).

23 ⁹ *Id.*

¹⁰ *Id.*

¹¹ ECF No. 85 at 3. Because I reach this conclusion based on the cancer diagnosis, I need not and do not consider whether further reasons exist based on COVID-19.

1 government concedes, he has already served more than half of his substantial sentence, his
 2 crimes of conviction did not involve an element of violence, he will likely be deported upon
 3 release, and his five-year term of supervised release with the conditions already imposed will
 4 give the court the necessary degree of oversight over him should he return.¹²


5 Accordingly, IT IS HEREBY ORDERED that the unopposed Motion for Compassionate
 6 Release [ECF No. 83] is **GRANTED**.

7 IT IS FURTHER ORDERED that **Defendant be quarantined for a 14-day period**,
 8 beginning no later than the day following the date of this order, and given medical clearance,
 9 consistent with BOP policy, before this Order takes effect.

10 IT IS FURTHER ORDERED that, **upon completion of the 14-day quarantine and**
 11 **medical clearance, Defendant's term of imprisonment is reduced to time served, followed**
 12 **by a five-year term of supervised release** on the conditions already imposed,¹³ and that term of
 13 supervised release will begin immediately upon his release, should he not be deported.

14 IT IS FURTHER ORDERED that Defendant's Motion for Appointment of Counsel
 15 [ECF No. 81] is **DENIED** as moot, as Assistant Federal Public Defendant Andrew Wong has
 16 represented Defendant for the limited purpose of this motion under the Court's General Order
 17 2020-06, *see* ECF No. 82, and the limited purpose for which Defendant sought counsel has been
 18 fulfilled.

19 Dated: November 17, 2020

20 
 21 U.S. District Judge Jennifer A. Dorsey
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23 ¹² *Id.*

¹³ ECF No. 80.